IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7110 OF 2004

Ram Khialdas Manghnani ..Petitioner.

Versus

Ganpat Niketan Co-op.Hsg.Society Ltd. ..Respondent.

Mr. Bhandari with M.H.D'silva for the Petitioner.

CORAM : S. A. BOBDE, J.

DATED : 04TH OCTOBER,2005.

P.C.:

1. By this petition, the petitioner has challenged the impugned order of the Maharashtra State Co-operative Appellate Court dated 17th July, 2004 by which the petitioner has been restrained from using garage No.1 for commercial purpose or for any purpose, except parking car, and from selling, assigning or transferring his right, title or interest in the said garage to any person who is not resident-member of the disputant society. The appellate court has also directed an appointment of a Commissioner by the trial court.

2. It was contended on behalf of the petitioner that the petitioner has been legally using the garage for commercial purpose at least from 13.04.1994. To support this the petitioner had relied on a letter dated 13.04.1994 purported to have been issued by the Municipal Corporation. The appellate court has doubted the reliability of the said letter. The appellate court has observed that the petitioner did not produce any record except this letter that he was using the said garage for commercial purpose and that there is no support for the petitioner's claim for any period prior to 1999. The learned counsel for the petitioner states that the evidence is being recorded in the dispute before the Co-operative Court.

3. In this view of the matter and in view of the reasons stated by the Co-operative Appellate Court, I do not consider it appropriate to interfere with the impugned order. The petition is hereby dismissed.

4. The trial court shall decide the dispute as expeditiously as possible and in any case not later than three months from the next date.

DT.04.10.05 (S.A.BOBDE,J)

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